IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10919 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 NO

RENUKABEN RASMIKANT PADIA

Versus

BANK OF MAHARASHTRA

Appearance:

1. Special Civil Application No. 10919 of 2001

MR RAJESH K SAVJANI for Petitioner No. 1

MR INDRAVADAN PARMAR for Respondent No. 1-2

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 15/04/2002

ORAL JUDGEMENT

1. RULE. The learned counsel for the respondent waives service.

2. By this petition under Articles 14, 16 and 226 of the Constitution, the petitioner, the wife of the deceased officer of the respondent-Bank, has approached this Court with a prayer for reconsideration of her application dated 7.11.2000 for compassionate appointment of her son. The respondent-Bank has rejected the aforesaid application by a short order dated 1.9.2001. Being aggrieved by the same, the petitioner has approached this Court with minimal revelation of facts. After specific orders for filing affidavit in respect of the financial position of the petitioner and by virtue of the affidavit-in-reply of the respondent, the striking facts which have come on record are that the deceased officer, while in service of the respondent Bank, was involved in serious acts which the Bank called swindling away of a sizeable amount of Rs.11,90,940/- which was a straight financial loss to the respondent-Bank. According to the submissions of the learned counsel for the Bank, the amount involved in the mischief was higher as disclosed afterwards. A criminal case had also come to be filed and had abated due to the death of the deceased. On the other hand, by her own affidavit, the petitioner has received from the Life Insurance Corporation of India a sum of Rs.15 lakhs as being the life insurance amount out of which she has invested Rs.8.55 lakhs in Fixed Deposits. The petitioner is yet to receive the accumulated provident fund and gratuity amounts from the Bank and, for the reasons not disclosed despite queries therefor, the petitioner has not even filed a claim for the accidental death of the deceased in a motor accident. It is also disclosed that the petitioner owns one or more houses and owes a sizeable amount to the Bank which was taken as house-building loan.

3. The scheme of compassionate appointment in the respondent Bank clearly states that the compassionate appointment is at the discretion of the Bank and it was expressly evolved to enable the dependent members of the deceased employee to tide over the sudden crisis in the family of the employee who died in harness, leaving his family in penury and without any means of livelihood. It is also made clear in terms that the appointment under the scheme would be considered only in case where the Bank is satisfied that the financial condition of the family is such that but for the provision of the employment, the family will not be able to meet the crisis. Therefore, mere eligibility of the dependent or mere death of an employee will not vest any right for claiming employment. It is again clarified in the scheme that appointment under the scheme would be at the

discretion of the Bank. By a subsequent modification dated 23.3.2000 approved by the Board of Directors, there have been brought in financial aspects to be considered in the matter of appointment on compassionate ground, such as, balance of provident fund, gratuity benefits including commutation portion of pension, leave encashment, savings and investment of the deceased including claims settled by L.I.C.

4. The petition has been sought to be pressed for the aforesaid relief without making full disclosure of facts and in utter disregard of the provisions made in the scheme on the basis of which the prayers were made. It is also revealed by the respondent-Bank in its affidavit-in-reply that, in the savings bank account of the petitioner, a sizeable amount of various credits of over Rs.16 lakhs had been effected on different dates within nine months after the death of the petitioner's husband and during the period from December 2000 to August 2001. The above facts leave no room to doubt that the petition is by way of an abuse of the process of Court and an attempt at usurping the post which clearly should go to deserving candidates selected by a regular recruitment procedure. Therefore, this petition is dismissed with special costs quantified at Rs.2,500/- which should be paid by the petitioner to the respondent. Rule is discharged accordingly.

Sd/-

(D.H.Waghela, J.)

15.4.2002

(KMG Thilake)